

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Steven A. Nerger, not individually  
but solely as assignee for the benefit of  
creditors of Clark Products, Inc. and Clark  
Foodservice, Inc.,

Civil No. 10-2533 (DWF/JJK)

Plaintiff,

v.

**ORDER**

Midwest Theaters Corporation, d/b/a CineMagic  
Theatres, and Steven L. Tripp,

Defendants.

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David C. Gustman, Esq., Freeborn & Peters LLP; and Matthew B. Millis, Esq. and  
S. Jamal Faleel, Esq., Fredrikson & Byron, PA, counsel for Plaintiff.

Jesse H. Kibort, Esq., and David J. Wymore, Esq., Daniels & Wymore, PLLC, counsel  
for Defendants.

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This matter is before the Court on a Motion to Strike Defendant's Affirmative  
Defenses brought by Plaintiff. (Doc. No. 6.) Consistent with the Court's comments on  
the record at the hearing on this matter, the Court orders Defendants to file an amended  
pleading no later than November 30, 2010. The Court will, at that time, rule on the  
pending motion to dismiss as it relates to the amended pleading.

**SO ORDERED.**

Dated: October 31, 2010

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge